

BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

THIS DECISION DESIGNATES FORMER BENEFIT
DECISION NO. 4473 AS A PRECEDENT
DECISION PURSUANT TO SECTION
409 OF THE UNEMPLOYMENT
INSURANCE CODE.

In the Matter of:

THELMA M. CRAWSHAW
S.S.A. No.

PRECEDENT
BENEFIT DECISION
No. P-B-177

FORMERLY BENEFIT DECISION No. 4473
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The above-named claimant on October 26, 1946, appealed from the decision of a Referee (R-15737-43899-46) which held that she was not available for work as required by Section 57(c) of the Unemployment Insurance Act /now section 1253(c) of the Unemployment Insurance Code/, indefinitely commencing September 16, 1945.

STATEMENT OF FACT

The claimant was last employed in California during August, 1945, when she worked for two days as an orange grader at a wage of sixty-five cents per hour. She has had some prior experience in this work but her primary employment experience has been as an aircraft worker in which occupation she worked for sixteen months at wages ranging from sixty to ninety-five cents per hour. She left California in August, 1945, and moved to Bend, Oregon, population 8,000, where her husband obtained employment.

On August 27, 1945, the claimant registered as a salesclerk and filed a claim for benefits in the Bend, Oregon, office of the Department of Employment. On October 12, 1945, the Department issued a determination which held the claimant ineligible for benefits indefinitely commencing September 16, 1945, on the ground that she was not available for work as required by Section 57(c) of the Unemployment Insurance Act. The claimant appealed and a Referee affirmed the determination.

At all times since moving to Bend, the claimant has been willing to accept any type of work that she might reasonably be expected to perform, and she will accept employment at rates of pay which prevail in the locality. A representative of the local office in Bend testified that there is work in the locality for salesclerks and in other occupations for which the claimant could qualify. The claimant has made numerous applications for work as a salesclerk and as a hotel maid; however, prior to October 15, 1945, the claimant was unable to arrange regular care for her four-year-old child and therefore she could not accept full-time work during normal working hours. On October 15, 1945, she made arrangements for the care of her child and informed the local employment office that she would accept any work without restrictions as to hours of work. In October, 1946, the claimant obtained temporary employment as an enumerator which was the only work offered to her by the local employment office.

REASON FOR DECISION

Under the above facts and in conformity with numerous prior decisions, it is our opinion that when the claimant moved to Bend, Oregon, and because of domestic responsibilities was unable to offer her services to the labor market with any reasonable degree of regularity or certainty, she placed herself outside of any reasonable labor market for her services. Therefore, the claimant did not meet the availability requirements of Section 57(c) of the Act /now section 1253(c) of the Unemployment Insurance Code/ until October 15, 1945. On such date the claimant advised the local office that arrangements had been made for the care of her child and she was then willing to accept any suitable employment without unreasonable restrictions or limitations, thereby becoming available for work under the Act.

DECISION

The decision of the Referee is modified. The claimant is held not available for work from September 16, 1945, through October 14, 1945, and benefits are denied

for such period. The claimant is held available for work commencing October 15, 1945, and benefits are allowed on and after such date provided the claimant is otherwise eligible.

Sacramento, California, January 6, 1976

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

DON BLEWETT, Chairperson

MARILYN H. GRACE

CARL A. BRITSCHGI

RICHARD H. MARRIOTT

DISSENTING - Written Opinion Attached

HARRY K. GRAFE

DISSENTING OPINION

I dissent for the reasons set forth in my dissenting opinion in Appeals Board Decision No. P-B-168, except as to the last three paragraphs thereof.

Further, although the 1945-1946 case here purports to establish a precedent rule interpreting section 1253(c) of the Unemployment Insurance Code, were the identical facts to arise today, in all likelihood the section 1253(c) issue would never be reached and the claimant would fail to qualify for benefits by reason of the provisions of section 1264 which was added to said code in 1953. To me, the choice of a case in which, today, the issue of availability for work would be foreclosed by reason of a statute which has been on the books for more than 20 years, seems a poor candidate for a precedent decision.

HARRY K. GRAFE